

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 2-6 and 20-25 are pending after entry of the amendments set forth herein.

Claims 2-6 and 20-24 were examined. Claims 2-6 and 20-24 were rejected.

Applicants respectfully request reconsideration of the application in view of the remarks made herein.

No new matter has been added.

The Office Action

Claims Rejected Under 35 U.S.C. Section 103(a) (Aboul-Hosn in view of Wang)

Claims 2-6 and 20-24 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Aboul-Hosn, U.S. Patent No. 6,858,001 in view of Wang, U.S. Patent No. 6,106,497.

Regarding claims 2 and 24, the Examiner asserted that Aboul-Hosn discloses a left side cardiac device 10 having a fluid delivery conduit 30 and an intake cannula 20. The Examiner further referred to column 5, lines 24-30 of Aboul-Hosn in support of the Examiner's assertion that "the fluid delivery conduit (30) is introduced into the left atrium". The Examiner further asserted that it would have been obvious to modify the Aboul-Hosn device such that the intake cannula 20 is introduced into the left ventricle, for purposes of expelling blood therefrom.

Applicants respectfully traverse. The Examiner has suggested modifying Aboul-Hosn such that the conduit 30 is introduced into the left atrium and the intake cannula 20 is introduced into the left ventricle to expel blood therefrom. This would result in pumping blood from the left ventricle to the left atrium, which, it is respectfully submitted, would only recycle blood from the left ventricle to the left atrium and back into the left ventricle again.

It is further respectfully submitted that even if the pump were reversed in the arrangement suggested by the Examiner, this would only pump blood from the left atrium to the left ventricle and would therefore not accomplish unloading of the left ventricle to accomplish the goal of Aboul-Hosn.

Accordingly, it is respectfully submitted that the Examiner has not established a prima facie case

of obviousness in this case.

The Examiner further asserted that the disclosure by Aboul Hosn of filling the fluid conduit with a saline solution clearly suggests that the conduit 30 is in communication with a fluid source. Applicants respectfully submit that the conduit 30 is filled with saline only after inserting it into the portal, see column 5, lines 37-39. This does not require that the conduit be in communication with a fluid source at the time that the conduit 30 is inserted. In contrast, claim 2 recites, *inter alia*, introducing a fluid delivery conduit that is in communication with a fluid source, into the left atrium.

It is respectfully submitted that claims 3-6 and 20-23 each depend from claim 2 and are allowable over the applied references for at least the same reasons provided above with regard to claim 2.

Accordingly, in view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 2-6 and 20-24 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Aboul-Hosn, U.S. Patent No. 6,858,001 in view of Wang, U.S. Patent No. 6,106,497, as failing to set forth a *prima facie* case of obviousness.

New Claim

New claim 25 has been submitted above to depend from claim 24. Support for claim 25 can be found, for example, in Figs. 1-7, 9, 10-12, the descriptions thereof, and throughout the specification and drawings. The Examiner is respectfully requested to indicate the allowance of claim 25 in the next Official Action.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number 9261.16661-PCT-US-DIV.

Respectfully submitted,
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